LEGAL NOTICE NO. 10

THE MEDICAL LABORATORY TECHNICIANS AND TECHNOLOGISTS ACT

(Cap. 253A)

IN EXERCISE of the powers conferred by section 40(f) of the Medical Laboratory Technicians and Technologists Act, the Board, with the approval of the Cabinet Secretary for Health, makes the following Regulations:—

THE MEDICAL LABORATORY TECHNICIANS AND TECHNOLOGISTS (ELECTION) REGULATIONS, 2015

PART I—PRELIMINARY

1. These Regulations may be cited as the Medical Laboratory Technicians and Technologists (Election) Regulations, 2015.

2. In these Regulations, unless the context otherwise requires—

"Board" has the meaning assigned to it by the Act;

"elected member" means a member appointed to the Board as a result of an election in accordance with the provisions of section 6 (1) (f) and (g) of the Act;

"election" means election held under these Regulations for the purpose of electing, elected members in accordance with the provisions of section 6 (1) (f) and (g) of the Act;

"nomination date" means the date determined by the returning officer under regulation 5; and

"returning officer" means the person appointed under regulation 3 to be in charge of election of new members to the Board.

PART II—ELECTIONS TO THE BOARD

3. (1) The Board shall, within two months upon a vacancy arising in the Board or at least four months before the date on which elected members cease to hold office, appoint a person to be the returning officer for the purpose of election of members under section 6 (1) (f) and (g) of the Act.

(2) No person shall be appointed under paragraph (1) unless such person—

(a) is at least 35 years of age;

(b) is not a member of the Board;
(c) is not a medical laboratory technician or technologist; and
(d) satisfies the requirements of Chapter Six of the Constitution.

(3) Subject to these Regulations, the returning officer shall be responsible for the conduct of the elections.

4. In order to be eligible for election or to be entitled to nominate for or take part in the election, a person must have the requisite qualifications on the date to be fixed by the returning officer as the last day on which nomination papers shall be received.

5. The returning officer shall fix the last date on which nomination papers shall be received and at least twenty-one days before the date so fixed he shall cause notice of the election to be published in the Gazette and at least two newspapers circulating in Kenya, which notice shall be as nearly as may be in Form A set out in the Schedule.

6. Each candidate for election shall be nominated on a separate nomination paper signed by not fewer than three persons having the requisite qualifications for nominating the candidate.

7. (1) Forms of nomination papers may, on application by post or otherwise, be obtained from the returning officer at the address referred to in paragraph (3) and in making the application it should be clearly stated for what part of the election the nomination form or forms are required.

(2) Every nomination paper shall contain the name, address and registered qualification, and other requisite qualifications, of any of the candidates nominated as set out in Form B in the Schedule and the address and registered qualifications of each of the persons nominating the candidates and shall be as nearly as may be in Form C set out in the Schedule.

(3) Every nomination paper shall—

(a) be accompanied by the declaration in writing in Part II of Form C set out in the Schedule signed by the person nominated acknowledging that he consents to be nominated;
(b) be accompanied by a fee of ten thousand shillings;
(c) be addressed to the Returning Officer, Kenya Medical Laboratory Technicians and Technologists Board, P.O. Box 20889-00202, Nairobi, and delivered to him before the hour of 4 p.m. on the last day fixed by the returning officer for the receipt of nomination papers.

(4) Any nomination paper which is not received at the address referred to in paragraph (3) before the hour and day specified in that paragraph shall be invalid.

8. As soon as possible after the time fixed for the receipt of nomination papers has expired, the returning officer shall publish at the
offices of the Board a list of the duly nominated candidates and shall on the same day send a copy of that list by registered post to each of the candidates.

9. (1) The election of elected members of the Board shall be conducted in accordance with the provisions of this regulation.

(2) If the number of duly nominated candidates in respect of any category of elected members does not exceed the number to be elected in that category the returning officer shall forthwith declare those candidates to be elected.

(3) If the number of duly nominated candidates in respect of any category of elected members exceeds the number to be elected in that category the returning officer shall as soon as possible prepare ballot papers and identification envelopes which shall be as nearly as may be in the Form D set out in the Schedule.

(4) The ballot papers shall contain the names, addresses and registered qualifications of all candidates who have been duly nominated and shall state the last day on which ballot papers may be received and the place to which they are to be returned.

(5) If no nomination papers are received on the appointed day the returning officer may extend the date for returning the nomination papers by fourteen days.

(6) The returning officer shall, at least twenty-one days before the last day fixed for the receipt of ballot papers, cause a ballot paper to be forwarded by post to each person qualified to vote in the election at his registered address, together with an identification envelope.

(7) No vote shall be cast or accepted as valid except on the ballot papers provided by the returning officer.

(8) Each person qualified to vote in the election shall mark the ballot paper delivered to him with the symbol X against the name or names of the nominated candidate or nominated candidates (not exceeding the number to be elected) for whom he votes and shall place the ballot paper inside the identification envelope, sign the declaration on the envelope, place it inside a covering envelope, and send it by post or otherwise to the returning officer at the address stated therein.

10. (1) The returning officer shall, immediately after the last day fixed for receipt of ballot papers, ascertain the validity of the votes cast by the examination of identification envelope, open the envelope, examine and count the valid votes cast for each candidate.

(2) The examination, opening and counting of the votes under paragraph (1) shall be done by the returning officer in the presence of the candidates or their duly nominated or appointed agents of whom seven days notice shall be issued to their last known address but the absence of a candidate or his agent to whom due notice has been given shall not in any way prevent the returning officer from proceeding with the examination, opening and counting of the votes.

(3) In each of the categories for which the election is held the candidates having the greatest number of votes shall be declared elected by the returning officer.
(4) In the event of equality of votes between two or more candidates the returning officer shall determine by lot which of the candidates whose votes are equal shall be declared elected.

11. Any question arising with regard to the validity of a nomination or ballot paper shall be determined by the returning officer.

12. The returning officer shall forthwith deliver to every candidate a written notice of the result of the election and shall deliver to the Board for onward transmission to the Cabinet Secretary, a list of candidates certified by him to have been elected showing the number of votes cast for each candidate.

13. (1) Any candidate unsuccessful at the poll may either personally or by his agent appointed in writing, notify the returning officer within fourteen days after the declaration of the result of the elections that he contests the validity of that part of the election in respect of which he was unsuccessful on the ground of non-compliance with the provisions of these Regulations, or of misdescription or miscount, or of the non-delivery or loss of any document.

(2) If after consideration of the contention disclosed in the notice, the returning officer is satisfied in respect of that part that the election was conducted substantially in accordance with the provisions of these Regulations and that any non-compliance, misdescription, miscount, non-delivery or loss, did not affect the result of that part of the election, he may, within fourteen days of receiving the notice, so certify and in that event he shall forward a copy of his certificate to the unsuccessful candidate, who may, within seven days of receiving that copy, appeal to the Cabinet Secretary.

(3) Where the returning officer does not so certify, he shall, not later than the fifteenth day after receiving the notice forward a copy thereof to the Cabinet Secretary together with such comments as he thinks fit.

(4) The Cabinet Secretary shall consider any appeal made under paragraph (2) or any notice received under paragraph (3) and his decision as to whether the result of the relevant part of the election was so affected shall be, final.

14. (1) Upon receipt of the names under regulation 12, the Cabinet Secretary shall, by notice in the Gazette, appoint the persons elected as members of the Board.

(2) No person shall be appointed under paragraph (1) unless such person—

(a) is qualified in accordance with the Act; and

(b) satisfies the requirements of Chapter six of the Constitution.

PART III—MISCELLANEOUS

17. (1) Any person who—

(a) commits the offence of personation, treating, undue influence or bribery as defined in the Elections Act, 2011 (No. 24 of 2011);
(b) makes or publishes, before or during any election, for the purpose of promoting or procuring the election of any candidate, any false statement of withdrawal of any other candidate at such election;

(c) forges, defaces or destroys any nomination paper, or delivers to the returning officer any nomination paper knowing it to be forged;

(d) interferes with the ballot paper by removing, destroying, concealing or mutilating or assists in the removal, destruction, concealment or mutilation of any such material;

(e) directly or indirectly prints, manufactures or supplies or procures the printing, manufacture or supply of any ballot paper in connection with the election save on the authority of the Board;

(f) obstructs or hinders the returning officer, candidate or agent in the execution of their lawful duties;

(g) makes a false statement or furnishes false particulars in any statement which is required under these Regulations knowing the statement or particulars to be false or without reasonable grounds for believing the same to be true;

(h) forges, counterfeits, defaces or destroys any ballot paper or the official perforation, stamp or mark on any ballot paper or any campaign or promotional material of an opposing candidate;

(i) sells or offers for sale any ballot paper to any person, purchases or offers to purchase any ballot paper from any person;

(j) without authority destroys, takes, opens, disposes of or otherwise interferes with any election material in use or intended to be used for the purposes of an election;

(k) without authority prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;

(l) votes at any election when they are not entitled to vote; or

(m) votes more than once in any election, commits an offence.

(2) Any person who commits an offence under paragraph (1) shall be liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.
FORM A

NOTICE OF ELECTION

NOTICE IS HEREBY GIVEN that pursuant to the provisions of section 6 (l) (f) and (g) of the Act, an election for new members of the Board by the Association shall be held on..................

The election shall be in respect of-

(a) three registered medical laboratory technicians, two of whom shall be in private practice; and

(b) three registered medical laboratory technologists, two of whom shall be in private practice.

Dated the........................................

Signed..............................

Returning Officer.

FORM B

APPLICATION FOR NOMINATION TO CONTEST ELECTIONS

PART I

PERSONAL DETAILS:

1. Full Name of Applicant.................................................................
2. National ID/Passport No..............................................................
3. Current Address...........................................................................
4. Telephone.........................Mobile...........................................
5. Fax No..........................................................E-Mail......................
6. Date of Birth............................................................................
7. Nationality..................................................................................
8. Academic and Educational Qualifications.................................
9. Association Registration No......................................................

PART II

DECLARATION BY APPLICANT

I, (Full Name)..................................................................................

DECLARE that:

(a) I am eighteen years and above.

(b) I am to the best of my knowledge in sound physical and mental health to be able to carry out the responsibilities required of me by the profession.
(c) I have not impersonated anybody on any issue concerning the profession or otherwise.

(d) I have not altered or falsified any document(s) relating to the profession or otherwise.

(e) I am of good professional/ethical standing as required by the Professional Code of Conduct and Ethics.

(f) I am free from any criminal record(s) related to the profession or otherwise.

(g) I will, at all times in the practice of my profession observe and strictly maintain adherence to the provisions and requirements of the Professional Code of Conduct and Ethics.

(h) The facts deponed herein are true to the best of my knowledge.

SWORN at..........................)
this...............day of..........20..... )

BEFORE ME: )........................................
 ) DEPONENT

COMMISSIONER FOR OATHS/
MAGISTRATE )

FORM C
PART I

LIST OF PROPOSERS

We, the undersigned, being registered medical laboratory technicians ( ) or medical laboratory technologists ( ) [Tick whichever is applicable] hereby nominate
MR/MRS/MISS/DR/PROF..........................
of (Address)........................................

who is a registered technician( ) or technologist ( )
of registration No........................................

and who is employed at........................................

where he/she is engaged in........................................

( ) Private Practice.

( ) Government employment.

( ) Parastatal employment.

( ) {Other employment please specify}. 
NAMES OF PROPOSERS

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Date..........................

PART II

DECLARATION BY APPLICANT

I, (Full Names)..................................................................................

consent to be nominated as a candidate for election as representative of the medical laboratory technicians/technologists registered in the-

Technicians register ( )

Technologists register ( )

[Tick where applicable]

I declare that the statement in the nomination paper regarding my qualifications is correct.

Signature.................................................. Registration Number........................................

Address................................................................................................................

NOTE:

(a) This declaration form, which must accompany the nomination paper, must be received by the Returning Officer, Kenya Medical Laboratory Technicians and Technologists Board, P.O. Box 20889-00202, NAIROBI not later than 4.p.m. on..........................

(b) Only registered medical laboratory technicians or registered medical laboratory technologists whose names appear in the Board’s register may be proposed as candidates.
FORM D

PROTOTYPE BALLOT PAPERS

BALLOT PAPER 1
Election of technician/technologist from Government or Parastatal employment

Elector's Mark X Nominated candidate's name Qualifications of candidate

BALLOT PAPER 2
Election of technician/technologist in private practice

Elector's Mark X Nominated candidate's name Qualifications of candidate

NB: Each category of ballot paper shall have a different colour.

IDENTIFICATION ENVELOPE

I, the undersigned, declare that I am the person to whom the enclosed ballot paper is addressed as above, that I am registered on the—

Technician ( )

Technologist ( ) [Tick whichever is applicable]

part of the register, and that I have not marked any other ballot paper in this part of the election.

Signature.................................................................

Name.................................................................

These ballot papers must be returned so as to be received by the returning officer on........................................at................................................

Dated the 12th November, 2014.

ABEL O. ONYANGO,
Chairman,
Kenya Medical Laboratory
Technicians and Technologists Board.